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Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
New Jersey State Board of Optometrists
124 Halsey Street, 6th Floor, Newark, NJ 07102



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Mailing Address:
P.O. Box 45012
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By Certified and Regular Mail

Joshua M. Goldschmidt, O.D.
436 Main Street
Hackensack, New Jersey 07601

Re: I/M/O JOSHUA M. GOLDSCHMIDT, O.D.

Modified Offer of Settlement in Lieu of Filing a Formal Disciplinary Complaint

Dear Dr. Goldschmidt:

This letter is to advise you that the New Jersey State Board of Optometrists (the "Board") has had an opportunity to review information concerning the eye examination you performed on Kenneth Hancock, O.D. and the eyeglass prescription that you issued him. Specifically, the information reviewed provided that on January 6, 2006 you conducted an eye examination on Kenneth Hancock and wrote him a prescription for eyeglasses. According to Dr. Hancock, the eye examination you provided to him was inadequate. As stated in the complaint filed by Dr. Hancock, "certain things that were omitted were: (1) near VA with my specs, (2) no near Range done with Rx, (3) no fields, (4) no K reading, [and] (5) no PD." He states that his far prescription was measured to be approximately - 0.25 O.U. by Dr. Goldschmidt. However, he was never asked if there was any improvement in his far vision with the prescription or if he was interested in wearing bifocals. He was written a prescription for +2.50 for eyeglasses without any indication that it was a near prescription, the name of the doctor on the prescription blank was an Irina Perelman, O.D., and the signature on the prescription was illegible to Dr. Hancock. Upon the Board's initial review of the patient record, the Board noted that the record did not reflect a complete eye examination. Also, Dr. Goldschmidt's name did not appear on the patient record or the prescription blank. The only name printed on either the patient record and the prescription was Dr. Irina Perelman, O.D. and the signatures on both were illegible.

The Board conducted an investigative inquiry on May 17, 2006, which you attended with your attorney, James A. Schragger. At the inquiry, you were asked questions regarding the patient record of Kenneth Hancock, O.D. The documentation and testimony presented indicated that you performed an eye exam on Dr. Hancock on January 6, 2006. The Board noted that the patient record was incomplete as you did not record the patient's medical information on the patient record nor did you sign the patient profile form which contained the patient's health information. You testified that the patient record did not include any recording of the examination of the external eye, color vision testing, corneal measurements, or subjective refractive findings and acuities. Further, you testified that you used Dr. Perelman's prescription blanks because she was your employer and she provided them to you for your utilization.

Upon review of all available information, the Board has preliminarily found that probable cause exists to support a finding that you violated N.J.S.A. 45:1-21(e) in that your conduct demonstrated professional misconduct, namely your use of another optometrist's prescription blanks contrary to the requirements N.J.S.A. 45:14-55, and violated N.J.A.C. 13:38-2.1(a)(3), (5), (7), and (9) in that the patient records of Kenneth Hancock did not contain a record of a complete examination. A review of the minimum eye examination regulation demonstrated that the patient record contained the following deficiencies:

1. The patient record did not contain a record of a complete examination of the external eye and adnexae;
2. The patient record did not contain a record of corneal measurements;
3. The patient record did not contain a record of subjective refractive findings and acuities; and
4. The patient record did not contain a record of color vision testing.


At this juncture, the Board has determined that the above violations are sufficient to warrant the initiation of formal disciplinary proceedings against you. Notwithstanding that decision, however, the Board has determined that it will first offer you an opportunity to settle this matter, and thereby avoid the initiation of formal disciplinary proceedings, should you consent to:

1. Cease and desist from maintaining incomplete patient records and performing incomplete eye exams in the future in violation of the Minimum Examination regulation, namely N.J.A.C. 13: 38-2(a) (3), (5), (7), and (9);
2. Cease and desist from using a prescription blank which does not have your name and license number printed on it as required by N.J.S.A. 45:14-55, which constitutes professional misconduct in violation of N.J.S.A. 45:1-21(e).

3. You are hereby formally reprimanded by the Board for your violations of N.J.S.A. 45:1-21(e) and N.J.A.C. 13: 38-2(a) (3), (5), (7), and (9).
4. Pay a civil penalty in the amount of \$3,500.00, which is to be paid immediately upon your signing of the acknowledgment at the bottom of this letter. This sum constitutes a penalty of \$2,500.00 for your violation of the Minimum Examination regulation N.J.A.C. 13: 38-2(a) (3), (5), (7), and (9) and a civil penalty in the amount of \$1,000.00 for your professional misconduct in violation of N.J.S.A. 45:1-21(e). Payment in full is due and shall be made by certified check or money order and sent to the attention of Susan Gartland, Executive Director, Board of Optometrists, P.O. Box 42012, Newark, New Jersey 07101.
5. Pay costs incurred by the Board in the amount of \$261.00 as supported in the attached certification of Susan Gartland, Executive Director of the Board, to be paid immediately upon your signing of the acknowledgment at the bottom of this letter, payment of which shall be made by certified check or money order and sent to the attention of Susan Gartland, Executive Director, Board of Optometrists, P.O. Box 45012, Newark, New Jersey 07101.;
6. Successfully complete and pass a three (3) hour course in record keeping administered by an accredited College of Optometry or in the alternative the Board will permit a COPE approved course. The course listed herein must be approved by the Board prior to your taking same and the course must be completed within 90 days of the date of your acceptance of this settlement offer.


If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. Upon your signature, this letter will be a matter of public record.

In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of appropriate enforcement action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted, the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than those herein offered in settlement should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order requiring you to reimburse certain monies and/or requiring you to pay the additional costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you have your attorney, Mr. Schragger, contact Deputy Attorney General Carmen A. Rodriguez , who may be reached at (973) 648-3696.

 **AUG 11 2006**

If you elect to settle this matter now you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of appropriate enforcement proceedings.

NEW JERSEY STATE BOARD
OF OPTOMETRISTS

By: 
Susan Gartland
Executive Director

ACKNOWLEDGMENT: I, Joshua M. Goldschmidt, O.D., hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to pay a penalty in the total amount of \$3,500.00, to be paid upon signing of this acknowledgment, to pay costs incurred by the Board in the amount of \$261.00, to be paid upon signing of this acknowledgment, to successfully complete and pass a three (3) hour course to be approved in advance by the Board in record keeping within 90 days of my acceptance of this settlement offer, and to comply with all other requirements set forth in this settlement letter.


Joshua M. Goldschmidt, O.D.

Dated: 8/8/06

cc: James A. Schragger, Esquire
Carmen A. Rodriguez, Deputy Attorney General